In re Application		)	PATENT APPLICATION
		)	
Inventor:	Multer	)	
		)	Art Unit: 2165
Application No.:	09/753,537	)	
		)	Examiner: Abel Jalil, N.
Filed:	January 2, 2001	)	
		)	Customer No. 28554
Title: BINARY DATA SYNCHRONIZATION		)	
ENGINE		)	
		)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants respectfully request consideration of the following remarks and arguments in connection with the Pre-Appeal Brief Request for Review submitted herewith.

REMARKS

Prior to filing an appeal brief, Applicants respectfully request that a panel of examiners formally review the legal and factual basis of the rejections in their application in accordance with the Pre-Appeal Brief Conference Pilot Program announced in the *Official Gazette, 12 July 2005*. This request is being filed simultaneously with a Notice of Appeal.

Applicants assert that the rejections of record are clearly not proper and are without basis. Legal and factual deficiencies exist in the rejections, as set forth hereinafter.

ARGUMENT

Claims 80-87, 90 and 109-116 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,321,236 B1 to Zollinger, et al. (hereinafter "Zollinger"). In response to the prior Office action, applicants amended the claims in a way that is believed to distinguish over the cited reference. In particular, independent claims 80, 109 and 116, as well as each of the remaining claims dependent thereon, were amended to recite that, in addition to binary differencing data, at least one data field type is also stored and/or output to an output device. This limitation is explained in the specification, for example at page 27, starting at line 14:

> Each Application Object (AO) is a software component that interfaces with the third party application APIs (Application Programming Interface) to provide the programming services to the delta module for extraction and deposition of information data from and to the third party application domain during synchronization. In addition, the AO maps the third party application data fields to system's domain. (Emphasis added).

The present application discloses a field mapping module 935 for mapping data fields. The field mapping module 935 is described for example at page 21, line 2:

> The field mapping module 935 allows for the user to re-map certain interpretations of items which were provided in the document stream. For example, if the device engine 860 is operating on a personal computer, and a synchronization is occurring between the personal computer and a notebook computer, and the user has a "my documents" directory on the personal computer which he wishes to map to a different directory on the notebook computer, the field mapping module 935 allows for this re-mapping to occur. It should be recognized that the field mapping module allows for changes in directing the output of the data package. The field mapping module 935 is not necessary to map particular data fields of, for example, contact information from one application, such as Microsoft Outlook, to a different application, such as Symantec's ACT, as is the traditional use of field mapping and synchronizing applications.

Zollinger has no disclosure, teaching or suggestion of a system which stores and/or outputs both binary differencing data and at least one data field. The Examiner has indicated that the recited data field is broadly construed and as such, is read on by Zollinger at col. 10, lines 45-65, col. 12, lines 9-14 and col. 12, lines 41-56. Applicants respectfully disagree. These sections describe the binary differencing data itself. They do not disclose a data field as that term is used in the present application. Without such a disclosure, Zollinger cannot anticipate the invention recited in the claims. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

Based on the above amendments to the claims and the discussion presented above, it is respectfully submitted that the claims are patentable over Zollinger, and it is therefore respectfully requested that the rejection of these claims under 35 U.S.C. §102(e) be withdrawn.

Rejection of Claim 88 Under 35 U.S.C. §103(a)

Claim 88 is rejected under 35 U.S.C. §103(a) as being unpatentable over Zollinger in view of U.S. Patent No. 5,519,433 to Lappington, et al. (hereinafter "Lappington").

Claim 88 depends on claim 80. As indicated above, claim 80 has been amended to recite limitations which are nowhere taught or suggested in Zollinger. In particular, claim 80 has been amended to recite that, in addition to binary differencing data, at least one data field type is also stored and/or output to an output device. Lappington adds nothing to the teaching of Zollinger in this regard. Therefore, it is respectfully submitted that claim 88 is patentable over the cited references, taken alone or in combination with each other, and it is respectfully requested that the rejection of this claim under 35 U.S.C. §103(a) be withdrawn.

Rejection of Claim 89 Under 35 U.S.C. §103(a)

Claim 89 is rejected under 35 U.S.C. §103(a) as being unpatentable over Zollinger in view of U.S. Patent No. 5,574,906 to Morris (hereinafter "Morris").

Claim 88 depends on claim 80. As indicated above, claim 80 has been amended to recite limitations which are nowhere taught or suggested in Zollinger. In particular, claim 80 has been amended to recite that, in addition to binary differencing data, at least one data field type is also stored and/or output to an output device. Morris adds nothing to the teaching of Zollinger in this regard.

-3-

Therefore, it is respectfully submitted that claim 88 is patentable over the cited references, taken alone or in combination with each other, and it is respectfully requested that the rejection of this claim under 35 U.S.C. §103(a) be withdrawn.

It is therefore respectfully requested that the rejection of claim 89 under 35 U.S.C. §103(a) be withdrawn.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: May 7, 2008   By: /Brian I. Marcus/
                                              Brian I. Marcus
                                              Reg. No. 34,511

VIERRA MAGEN MARCUS & DENIRO LLP
575 Market Street, Suite 2500
San Francisco, CA 94105
Telephone: (415) 369-9660
Facsimile: (415) 369-9665

-4-

Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
FUSN1-01003US0

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number	Filed
	09/753,537	January 2, 2001
on _____	First Named Inventor	
Signature_____	Multer	
	Art Unit	Examiner
Typed or printed name _____	2165	Abel Jalil, N.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
      Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
   (Form PTO/SB/96)

☑ attorney or agent of record.   34,511
   Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.

   Registration number if acting under 37 CFR 1.34 _____

/Brian I. Marcus/
_____
                       Signature

Brian I. Marcus
_____
            Typed or printed name

415-369-9660
_____
            Telephone number

May 7, 2008
_____
               Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐   *Total of _____ forms are submitted.